

City of Portland

Bureau of Development Services

Land Use Services Division

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Date: August 11, 2008
To: Interested Person

From: Noelle Elliott, Land Use Services

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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 07-183555 CU HDZ: CELLULAR EQUIPMENT ON THE ROSE PLAZA APARTMENT BUILDING

GENERAL INFORMATION

Applicant: Rising Investments LLC, Owner

824 NW Albemarle Terrace

Portland, OR 97210

Representative: Charles Wiens, Powder River Development, 503.314.3985

5256 SW Dosch Rd Portland, OR 97201

Site Address: 2199 NW Everett Street

Legal Description: TL 8500 BLOCK 36, KINGS 2ND ADD

Tax Account No.: R452306260 **State ID No.:** 1N1E33CA 08500

Quarter Section: 3027

Neighborhood: Northwest District, contact John Bradley at 503-227-7484.

Business District: Nob Hill, contact Peggy Anderson at 503-417-8960.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest

Other Designations: Alphabet Historic District

Zoning: RH: High Density Multi-Dwelling Zone

Case Type: CU HDZ: Conditional Use and Historic Design Review

Procedure: Type II, an administrative decision with appeal to the Landmarks

Commission.

Proposal:

The applicant seeks historic design review approval for the addition of radio frequency transmission facilities, including five (5) panel antennas, three (3) microwave dishes, five (5) DAP head units, two (2) equipment cabinets, and a screen enclosure, to the roof of an existing multi-story apartment building in the Alphabet Historic District. The equipment is to be located on the exterior face of two existing rooftop penthouses. Two equipment cabinets and

five DAP head units, each measuring approximately 0'-6" deep, 0'-8" wide and 1'-8" tall, are to be installed on the east façade of the southernmost existing penthouse. A screen enclosure made of radio frequency transparent material with architectural details to match the existing penthouse is proposed to screen the new equipment cabinets and will be mounted to the east side of the existing southernmost penthouse. On the northernmost existing penthouse, two panel antennas are proposed for the west face, two panel antennas for the south face, and one panel antenna is to be located on the east face of the penthouse. One microwave antenna is proposed for the north face of the northernmost penthouse, and two microwave antennas are to be located on either side of the southeast corner of the penthouse.

As the proposed radio frequency transmission facilities do not meet the review exemptions outlined in Chapter 33.274 or Chapter 33.445, a Conditional Use Review and a Historic Design Review are required.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant approval criteria are:

- 33.846 Historic Review
- Historic Alphabet District Community Design Guidelines
- Community Design Guidelines
- 33.815 Conditional Uses

ANALYSIS

Site and Vicinity: The site is located within the Historic Alphabet District at the corner of NW 22nd Avenue and NW Everett Street. The 10,000 square-foot site is developed with a 7-story apartment building that was constructed in 1952. The surrounding properties consist of older apartment buildings and a number of traditional single-family homes that have been converted to multi-family units. Portland's *Transportation System Plan* classifies NW 22nd Avenue as a Local Service Bikeway. NW Everett Street is classified as a Transit Access Street and a City Bikeway. The site is within the Northwest Pedestrian District.

Zoning: The RH (High Density Residential) zone is a high-density multi-dwelling residential zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartment and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services.

The <u>Historic Resource Protection overlay zone</u> is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks. The regulations that pertain to these properties protect certain historic resources in the region and preserve significant parts of the region's heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

Land Use History: City records indicate that prior land use reviews include the following:

■ <u>LUR 97-014289 CU AD</u> (reference file #97-00243): Conditional Use approval to mount nine antennas on the roof of this apartment building. The antennas, mounting hardware, any equipment cabinets, and all visible cables and/or cable shrouds will be painted to match the color of the building surface to which they are mounted. Any future change in color of the building's surfaces must be matched by a matching change of color to this antenna installation. The applicant must include a completed registration form for this wireless communications facility with the final plans submitted for the building permit review.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed on March 28, 2008. The following Bureaus have responded with no issues or concerns:

- Portland Fire & Rescue;
- Portland Water Bureau;
- Bureau of Environmental Services;
- Bureau of Transportation Engineering & Development;
- Urban Forestry Division of Portland Parks & Recreation; and
- Site Development Section of the Bureau of Development Services.

The <u>Life Safety (Building Code)</u> Section of the Bureau of <u>Development Services</u> responded with the following comment: "Guardrails 42 inches high shall be installed where roof-mounted equipment requiring service is located within 10 feet of the roof edge." Please see Exhibit E.1 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 28, 2008**. One written response was received from either the Neighborhood Association or notified property owners in response to the proposal.

• Michael Telerant, a neighbor, responded on April 15, 2008, with concern that the proposed equipment will be visible from the street. He asked that a less visible location be found for the new equipment.

Staff Note: This information was relayed to the applicant. Since the notice of proposal was mailed, the screen enclosure to hide the proposed equipment cabinets has been added to the proposal. The screen enclosure will obscure the additions closest to NW Everett St. The additional equipment is located approximately 35'-4" from NW 2nd Ave and 46'-3" from NW Everett St.

ZONING CODE APPROVAL CRITERIA

1) CONDITIONAL USE REVIEW

33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.225 Radio Frequency Transmission Facilities

These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

- A. Approval criteria for facilities operating at 1,000 watts ERP or less, proposing to locate on an existing building or other non-broadcast structure in an OS or R zone or in a C, E, or I zone within 50 feet of an R zone:
- 1. The visual impact of an antenna must be minimized. For instance, it can be hidden behind a compatible building feature such as a dormer, mounted flush to the facade of the building and painted to match, mounted on a structure designed with minimal bulk and painted to fade into the background, or mounted by other technique that equally minimizes the visual impact of the antenna;

Findings: The project involves the addition of radio transmission facilities to the roof of an existing 7-story building. Specifically, the proposal includes the installation of five panel antennas, five DAP head units, three microwave antennas, and two equipment cabinets with an associated screen enclosure, on the façades of two existing penthouses located at the center of the building's roof. The proposal has been carefully designed in order to minimize the visual impact of the antennas. First, the proposed antennas are relatively modest in scale: the microwave antennas measure 2'-0" in diameter; the panel antennas are 3'-6" tall, by 6" wide; and the DAP head units are approximately 2'-6" long, by approximately 0'-8" wide. Second, the equipment is carefully aligned and is mounted to the facades of the penthouses—not at the corners—in order ensure that each structure retains its visual clarity. In addition, none of the proposed equipment will extend above the top of the taller of the penthouse roofs. Finally, all proposed equipment will be painted to match the color of the building walls, which will further minimize the equipment's visual impact. The proposed screen enclosure helps minimize the presence of the largest additions, and matches the form, color and architectural details of the existing penthouses to help it blend with the rooftop environment. Therefore, this criterion is met.

2. Accessory equipment associated with the facility must be adequately screened. If a new structure will be built to store the accessory equipment, the new structure must be designed to be compatible with the desired character of the surrounding area and be adequately screened; and

Findings: Accessory equipment associated with the facility includes two equipment cabinets, mounted to the west façade of the northernmost penthouse. The height of the building prevents direct views of this portion of the roof from the street or adjacent properties. In addition, a new screen enclosure hides the cabinets, and matches the height, massing, color, and architectural details of the existing southernmost penthouse. *Therefore, this criterion is met.*

3. The regulations of Chapter 33.274, Radio Frequency Transmission Facilities are met.

Findings: The relevant regulations and standards for this proposal as discussed below, are the development standards of Chapter 33.274 - Radio Frequency Transmission Facilities. As discussed in detail below, all applicable regulations are met; therefore, this criterion is met.

2) RADIO FREQUENCY TRANSMISSION FACILITIES DEVELOPMENT STANDARDS (33.274.040)

- **A. Purpose**. The development standards:
 - Ensure that Radio Frequency Transmission Facilities will be compatible with adjacent uses:
 - Reduce the visual impact of towers and accessory equipment in residential and open space zones whenever possible;
 - Protect adjacent populated areas from excessive radio frequency emission levels; and
 - Protect adjacent property from tower failure, falling ice, and other safety hazards.
- **B. When standards apply.** Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities. Applications to modify existing facilities regulated by this chapter are only required to meet the standards of Paragraphs C. 3, C.4, C.5, C.6, and C.9, below, in addition to any previous conditions of approval. Increasing the height of a tower is not considered modification of an existing facility.

C. General requirements

- 1. Tower sharing. Where technically feasible, new facilities must co-locate on existing towers or other structures to avoid construction of new towers. Requests for a new tower must be accompanied by evidence that application was made to locate on existing towers or other structures, with no success; or that location on an existing tower or other structure is infeasible.
- 2. Grouping of towers. The grouping of towers that support facilities operating at 1,000 watts ERP or more on a site is encouraged where technically feasible. However, tower grouping may not result in radio frequency emission levels exceeding the standards of this chapter.
- 3. Tower finish. For towers not regulated by the Oregon Aeronautics Division or Federal Aviation Administration, a finish (paint/surface) must be provided that reduces the visibility of the structure.
- 4. Tower illumination. Towers must not be illuminated except as required for the Oregon State Aeronautics Division or the Federal Aviation Administration.

Findings for C.1 through C.4: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore, these criteria are not applicable.*

5. Radio frequency emission levels. All existing and proposed Radio Frequency Transmission Facilities are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified in Table 274-1, except as superseded by Part 1, Practice and Procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits.

Table 274-1 Radio Frequency Emission Standards [1]				
Frequency Range	Mean Squared Electric (E ²) Field Strength (V ² /m ²) [2]·	Mean Squared Magnetic (H ²) Field Strength (A ² /m ²) [3]·	Equivalent Plane-Wave Power Density (mW/cm ²) [4]	
100 KHz - 3 MHz 3 MHz - 30 MHz 30 MHz - 300 MHz 300 MHz - 1500 MHz 1500 MHz - 300 GHz	80,000 4,000 (180/f ²) [5] 800 4,000 (f/1500) 4,000	0.5 0.025 (180/f ²) 0.005 0.025 (f/1500) 0.025	20 180/f ² 0.2 f/1500 1.0	

Notes:

- [1] All standards refer to root mean square (rms) measurements gathered by an approved method.
- [2] V^2/m^2 = Volts squared per meter squared.
- [3] A^2/m^2 = Amperes squared per meter squared.
- [4] mW/cm^2 = Milliwatts per centimeter squared.
- [5] f = Frequency in megahertz (MHz).

Findings: The proposed facility will operate within the limits stated in Table 274-1 per calculations provided by the applicant's engineer, Exhibit C.14. *Therefore, this criterion is met.*

Staff note: The Federal Telecommunications Act of 1996 prohibits a local government from denying a request to construct such facilities based on "harmful radio frequency emissions" as long as the wireless telecommunications facility meets the standards set by the FCC. Furthermore, the Act required the FCC to adopt standards for radio frequency emissions from wireless telecommunications by August 1996. In a rule making procedure, the FCC adopted standards effective August 1, 1996, which are virtually the same as those reflected in Table 274-1. Because this land use review was submitted after those

standards took effect, this conditional use review cannot be denied solely on the issue of harmful radio frequency emission levels.

6. Antenna requirements. The antenna on any tower or support structure must meet the minimum siting distances to habitable areas of structures shown in Table 274-2. Measurements are made from points A and B on the antenna to the nearest habitable area of a structure normally occupied on a regular basis by someone other than the immediate family or employees of the owner/operator of the antenna. Point A is measured from the highest point of the antenna (not the tower) to the structure, and Point B is measured from the closest point of the antenna to the structure.

Table 274-2 Distance Between Antenna and Habitable Area of Structure (Where f is frequency in megahertz.)				
Effective Radiated Power	Frequency (MHz)	Point A: Minimum Distance From Highest Point of Antenna To Habitable Area of Structure (feet)	Point B: Minimum Distance From Closest Portion Of Antenna To Habitable Area of Structure (feet)	
< 100 watts		10	3	
100 watts to 999 watts		15	6	
1,000 watts to 9.999 Kw	< 7 7 - 30 30 - 300 300 - 1500 > 1500	11 f/0.67 45 780/vf 20	5 f/1.5 20 364/vf 10	
10 Kw plus	< 7 7 - 30 30 - 300 300 - 1500 1500	17.5 f/0.4 75 1300/vf 34	8 f/0.91 33 572/vf 15	

Findings: The proposed facility will be located on two existing rooftop penthouses and will meet the minimum siting distances for habitable structures per submitted scaleable plans and elevations, Exhibits C.5-C7. *Therefore, this criterion is met.*

- 7. Setbacks. All towers must be set back at least a distance equal to 20 percent of the height of the tower or 15 feet, whichever is greater, from all abutting R and OS zoned property and public streets. Accessory equipment or structures must meet the base zone setback standards.
- 8. Guy anchor setback. Tower guy anchors must meet the main building setback requirements of the base zone.

Findings for C.7 & C.8: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore*, this criterion is not applicable.

9. Landscaping and screening. The base of a tower and all accessory equipment or structures located at grade must be fully screened from the street and any abutting sites as follows:

a. In C, E or I zones more than 50 feet from an R zone. A tower and all accessory equipment or structures located in the C, E, or I zones more than 50 feet from an R zone must meet the following landscape standard:

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore*, this criterion is not applicable.

- b. In OS or R zones or within 50 feet of an R zone. A tower and all accessory equipment or structures located in an OS or R zone or within 50 feet of an R zoned site must meet the following landscape standards:
 - (1) Tower landscaping. A landscaped area that is at least 15 feet deep and meets the L3 standard must be provided around the base of the tower.

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore*, this criterion is not applicable.

(2) Accessory equipment and structures. A landscaped area that is at least 10 feet deep and meets the L3 standard must be provided around the base of all accessory equipment or structures located at grade.

Findings: The associated accessory equipment will be installed on the rooftop. *Therefore, this criterion is not applicable.*

10. Tower design.

- a. For a tower accommodating a Radio Frequency Transmission Facility of 100,000 watts or more, the tower must be designed to support at least two additional transmitter/antenna systems of equal or greater power to that proposed by the applicant and one microwave facility, and at least three two-way antennas for every 40 feet of tower over 200 feet of height above ground.
- b. For any other tower, the design must accommodate at least three two-way antennas for every 40 feet of tower, or at least one two-way antenna for every 20 feet of tower and one microwave facility.
- c. The requirements of Subparagraphs a. and b. above may be modified by the City to provide the maximum number of compatible users within the radio frequency emission levels.

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore, this criterion is not applicable.*

11. Mounting device. The device or structure used to mount facilities operating at 1000 watts ERP or less to an existing building or other non-broadcast structure may not project more than 10 feet above the roof of the building or other non-broadcast structure.

Findings: The proposed equipment will be mounted to the exterior walls of the existing rooftop penthouses. The devices used to mount the equipment to the existing penthouse structures will not project above the top of these structures. *Therefore, this criterion is met.*

12. Abandoned facilities. A tower erected to support one or more Federal Communication Commission licensed Radio Frequency Transmission Facilities must be removed from a site if no facility on the tower has been in use for more than six months.

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore, this criterion is not applicable.*

D. Additional requirements in OS, R, C, and EX zones and EG and I zones within 50 feet of an R zone.

- 1. Purpose. These additional regulations are intended to ensure that facilities operating at 1000 watts ERP or less have few visual impacts. The requirements encourage facilities that look clean and uncluttered.
- 2. Standards. In addition to the regulations in Subsection C., above, facilities operating at 1000 watts ERP or less located in OS, R, C, or EX zones or EG or I zones within 50 feet of an R zone must meet all of the following standards:
 - a. Antennas mounted on towers. Triangular "top hat" style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, within a unicell style top cylinder, or other similar mounting technique that minimizes visual impact.

Findings: The proposal is to mount the antennas on an existing building, not a tower. *Therefore, this criterion is not applicable.*

b. Antennas mounted on existing buildings or other non-broadcast structures. This standard only applies to facilities located in OS or R zones or within 50 feet of an R zone. The visual impact of antennas that are mounted to existing buildings or other non-broadcast structures must be minimized. For instance, on a pitched roof, an antenna may be hidden behind a false dormer, mounted flush to the facade of the building and painted to match; mounted on a structure designed with minimal bulk and painted to fade into the background; or mounted by other technique that equally minimizes the visual impact of the antenna. The specific technique will be determined by the conditional use review.

Findings: As previously discussed under criterion 33.815.225 A.1, the visual impact of the proposed antennas will be minimized by virtue of their placement on the existing rooftop penthouse structures, their scale, and the addition of a screen enclosure to hide the larger of the new additions. In addition, the equipment and the screen enclosure will be painted to match the existing color of the building. *Therefore, this criterion is met.*

c. Lattice. Lattice towers are not allowed.

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore, this criterion is not applicable.*

D. Additional Requirements in R zones. The minimum site area required for a tower in an R zone is 40,000 square feet. This regulation must be met in addition to the regulations in Subsections C. and D., above.

Findings: The proposal is to mount the facility on an existing building. A new tower is not proposed. *Therefore, this criterion is not applicable.*

3) HISTORIC REVIEWS (33.846)

Purpose of Historic Design Review

Historic Design Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Design Review Approval Criteria

Requests for historic design review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the Alphabet Historic District. Therefore the proposal requires Historic Design Review approval. The applicable design guidelines are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum [33.846.060 E.1.c]

Historic Alphabet District - Community Design Guidelines Addendum

These guidelines were adopted on September 5, 2000 and were developed to work with the Community Design Guidelines to provide a set of guidelines specific to the district.

Community Design Guidelines

These guidelines provide the constitutional framework for all design review areas outside the Central City that are not covered by their own specific area design guidelines. The Community Design Guidelines focus on three general categories: **(P) Portland Personality,** which establishes Portland's urban design framework; **(E) Pedestrian Emphasis,** which states that Portland is a city for people as well as cars and other transportation systems; and **(D) Project Design,** which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and only has addressed those considered applicable to this proposal. Historic Alphabet District Guidelines and Community Design Guidelines are addressed concurrently.

Historic Alphabet District Approval Criteria

1. Historic Changes. Most properties change over time; those changes that have acquired historic significance will be preserved.

Findings: The site is classified as a noncontributing structure within the Alphabet Historic District, and the proposal does not change building elements that have acquired historic significance. The proposal is additive, with the new equipment mounted to existing rooftop penthouses. The new additions, including the new screen enclosure, are minor elements that do not affect the architectural integrity of the existing building. *Therefore, this quideline is met.*

- **2. Differentiate New from Old.** New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.
- **3. Hierarchy of Compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the District. Where practical, compatibility will be pursued on all three levels. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

Findings for 2 and 3: The proposal retains the building's original materials and architectural character. The building is neither a historic landmark, nor a contributing property to the Historic Alphabet District, but the changes proposed have little impact on the building façade. Furthermore, the proposed radio transmission facilities are easily distinguished from original building fabric due to their contemporary construction and design. The new screen enclosure that hides the equipment cabinets closely matches the material finish and detail of the original penthouse, but is slightly lower than the original structure to help identify it as a new addition. In order to minimize their presence, the proposed facilities will be mounted to existing rooftop

penthouses, carefully aligned, and painted to match the walls of the subject building. Consequently, the proposed radio transmission facilities will have little impact on the building's overall composition, and views from adjacent properties or the street. *These guidelines are therefore met.*

Community Design Guidelines

Project Design Guidelines:

D6: Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for D6 and D8: The proposal retains the architectural character and integrity of the subject building. The proposed radio transmission facilities are minor additions to the building's rooftop environment, and should be hidden from street view. The new facilities are mounted to the façades of two existing rooftop penthouses, painted to match the penthouse walls, and carefully aligned in order blend with the existing rooftop system. Furthermore, the proposed antennas do not extend above the penthouse rooflines, which helps minimize their visual presence on the building. The addition of two equipment cabinets is screened from view by a new screen enclosure designed to resemble the southernmost penthouse, which is the shorter of the two penthouses. The new enclosure will visually extend the penthouse 7'-0" to the east and 10'-0" in the north-south dimension, a fairly minor amount that aids in reducing the visual clutter of the new facilities. The new screen enclosure will match the architectural cap detail, exterior finish, and be painted to match the existing penthouse. Therefore, with the conditions of approval that the new screen enclosure matches the color, exterior finish, and cap detail of the existing southernmost penthouse, and that the new panel antennas, microwave dishes, DAP head units, and all associated attachment hardware are painted to match the existing subject penthouse, these quidelines are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The purpose of the historic design review process is to ensure that exterior alterations to existing buildings protect the integrity of the special characteristics of the historic resources. The proposal meets the applicable design guidelines and therefore warrants approval. The new additions are relatively minor in nature and are attached to existing rooftop penthouses located within the center of the roof. The new units are located at a minimum of approximately 28'-0" from the edge of the roof parapet, with the majority of the units on the south and eastern edges will be partially screened from views from neighboring buildings by the existing penthouse structures. Their recessed location makes them well screened from street views from both NW Everett St and from NW 22^{nd} Ave.

ADMINISTRATIVE DECISION

Approval of including five (5) panel antennas, three (3) microwave dishes, five (5) DAP head units, two (2) equipment cabinets, and a screen enclosure, to the roof of the building, per the approved site plans, Exhibits C-1 through C-14, signed and dated August 6, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE Case File LU 07-183555 CU HDZ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The new screen enclosure must match the color, exterior finish, and cap detail of the existing southernmost penthouse.
- C. The new panel antennas, microwave dishes, DAP head units, and all associated attachment hardware must be painted to match the existing penthouse.

Decision rendered by: ______ on August 6, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: August 11, 2008

Staff Planner: Noelle Elliott

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 17, 2007, and was determined to be complete on **March 25, 2008.**

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on **December 17, 2007.**

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit A.3.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 25, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Landmarks Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after August 26, 2008 (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

• By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

• In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

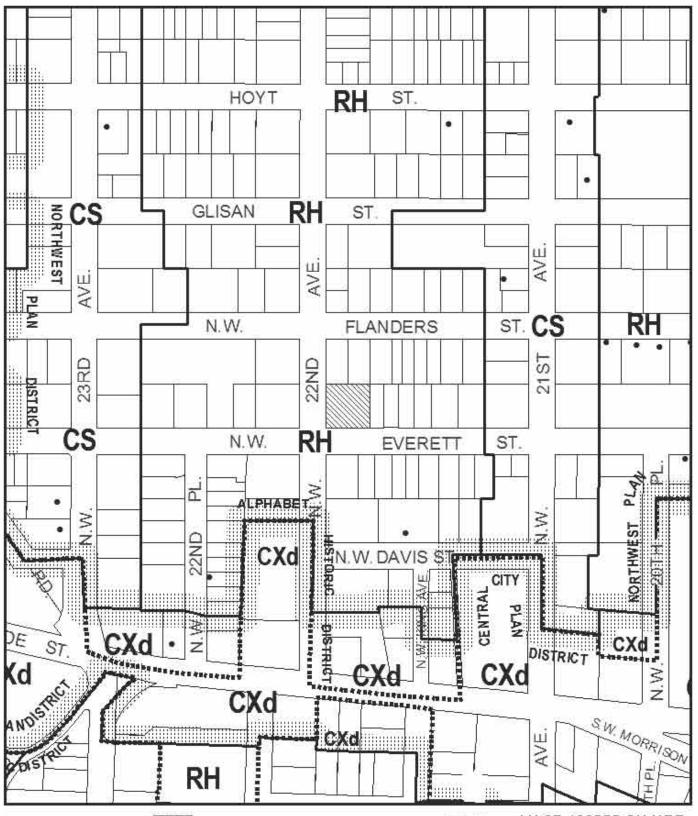
- A. Applicant's Statement
 - 1. Statement and Drawings
 - 2. Additional Information
 - 3. 120-Day Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Vicinity Map
 - 2. Notes
 - 3. Site Plan (attached)
 - 4. Roof Plan
 - 5. Existing & Proposed West Elevations (facing NW 22nd Ave) (attached)
 - 6. Proposed East Elevation & Proposed South Elevation (facing NW Everett St) (attached)
 - 7. Proposed North Elevation & Proposed Screen Enclosure Perspective
 - 8. Equipment Details
 - 9. Equipment Details
 - 10. Attachment Details
 - 11. Structural Diagram
 - 12. Structural Elevations
 - 13. Electrical Drawings
 - 14. Memo Describing Proposed Radio Frequency Limits
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:

1. Life-Safety Plans Examiner of BDS

Correspondence:

- 1. Michael Telerant, responded April 15, 2008, with concern that the proposed equipment will be visible from the street.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

Historic Landmark



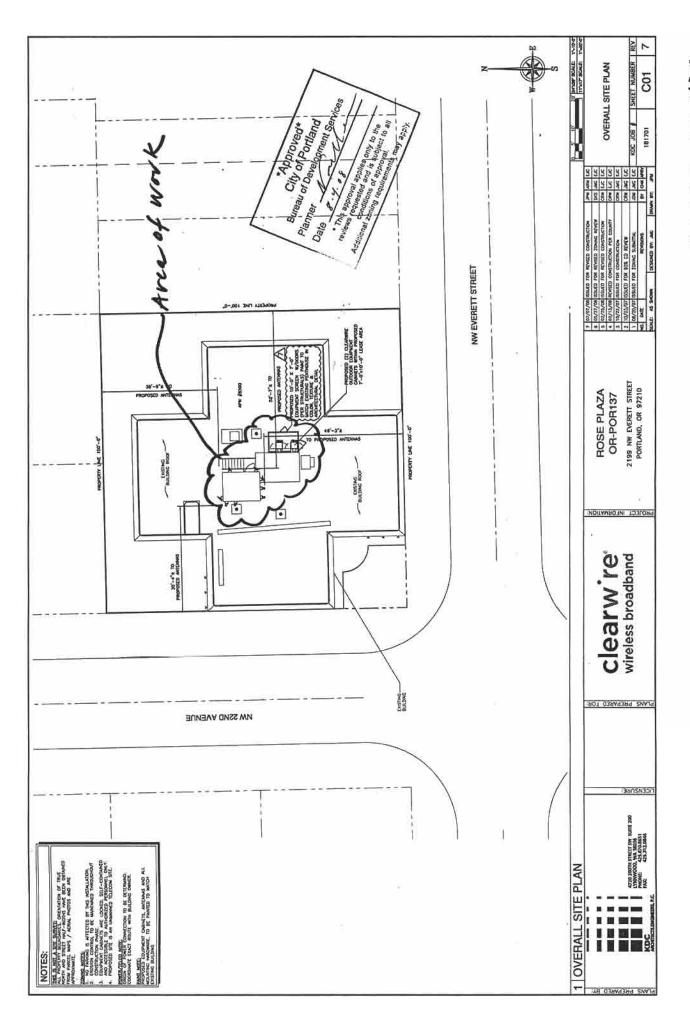
This site lies within the: ALPHABET HISTORIC DISTRICT NORTHWEST PLAN DISTRICT File No. LU 07-183555 CU, HDZ

1/4 Section 3027

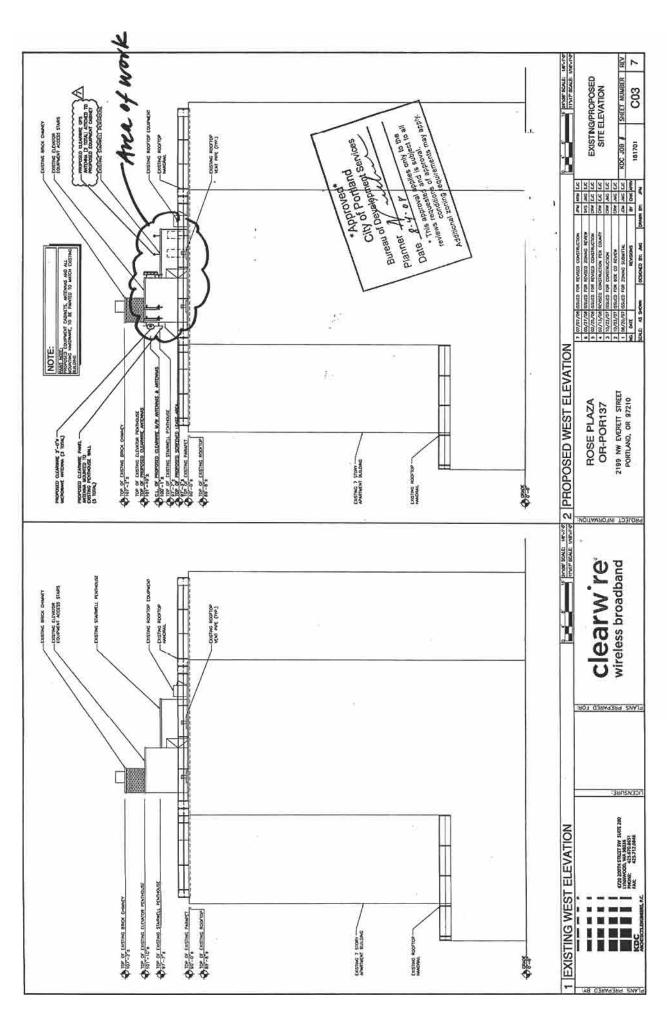
Scale 1 inch = 200 feet

State_Id 1N1E33CA 8500

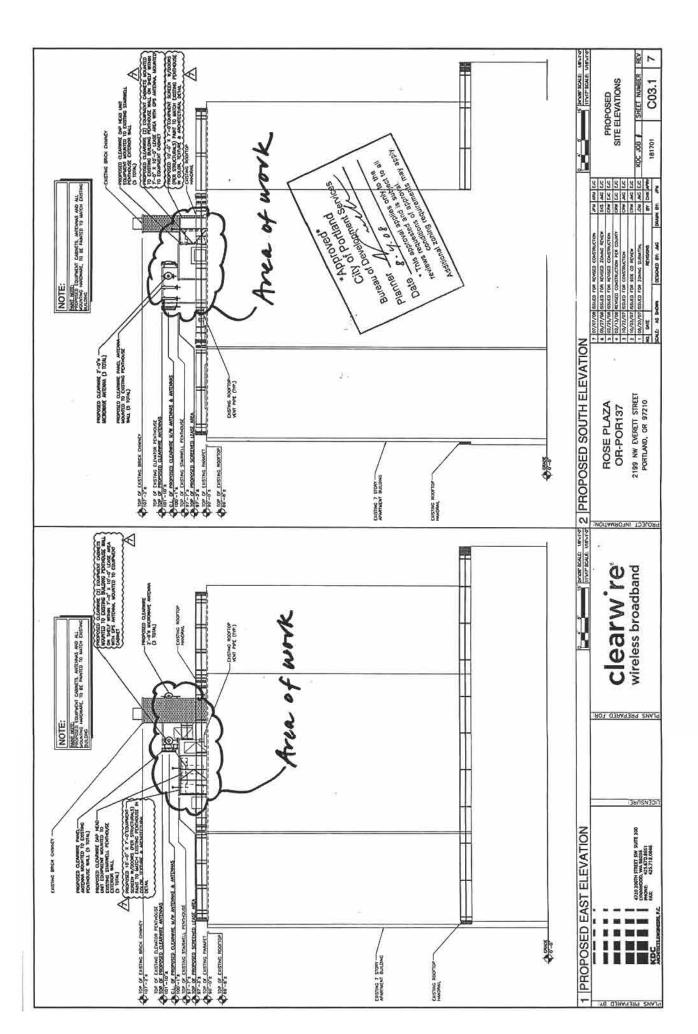
Exhibit B (Dec 26,2007)



LW 07-183555 CW HDZ Exhibit C.3



Lu 07-183555 cu HOZ Exhibit c.5



Lu 07-183555 CN HDZ Exhibit C.6